

A new role for community courts in D.C.

Judges now handling misdemeanor cases within geographical districts.

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D.C. Superior Court judge Robert Rigsby

Photo: Diego M. Radzinski / NLJ



Center for Court Innovation's Julius Lang

For the past 10 years, if Linda Smith saw crime in her southeast Washington neighborhood — a rash of home break-ins, for instance, or an increase in prostitution — she knew who to call.

Not just the police, she said, but D.C. Superior Court judges, too. Since 2002, one judge at any given time has handled most misdemeanor cases from Smith's neighborhood and other communities east of the Anacostia River. The presiding judges met regularly with the community and tried to tackle deeper problems, like drug abuse and homelessness, to curb crime and repeat offenders.

Smith, chairwoman of the Sixth District Citizens Advisory Council, said that, over the years, she and her neighbors learned that "the judge is not just this person sitting up there, they are community people, too."

The East of the River Community Court program was widely considered a success and, as of Jan. 1, the court has expanded the model citywide. Under the new system, one judge takes most misdemeanor cases, excluding domestic violence, for each of the city's seven police districts. The East of the River docket split into two calendars, for the Sixth and Seventh districts.

"The program works because, one, the community feels invested. Two, you've changed people's lives for the better. Three, you have judges who actually care," said Superior Court Judge Robert Rigsby, the presiding East of the River court judge for the last two years.

Community courts, like the East of the River program, try to address systemic problems facing offenders. By getting drug abusers treatment, or finding job training for the unemployed, for example, "we could break the cycle of arrest, incarceration, release and reincarceration," said criminal division Presiding Judge Russell Canan.

Judges also try to improve quality of life for the surrounding communities, attending meetings and making community service a part of the sentencing structure.

Superior Court is finalizing its first study of the program, but preliminary data and anecdotal reports were enough to green-light the expansion, Canan said. The report, which the court expects to release soon, shows a "statistically significant" drop in the rate of repeat offenders, he said.

Washington is one of about 40 jurisdictions nationwide to target low-level offenders through community courts. Unlike early model programs started in the 1990s, the District's program isn't physically in the community. Superior Court Community Court Branch Chief Michael Francis said a lack of funding and other resources stopped the court from considering a site-based program; expanding the program in-house will cost nothing, he added.

Julius Lang, director of technical assistance at the Center for Court Innovation in New York City, said Washington is among a handful of jurisdictions to adopt a citywide community courts approach — and is the only one to assign judges to calendars based on geography.

"In many ways, this is one of the most ambitious applications of the community court model," said Lang, who works with cities to develop such courts. "The fact that they're doing this on a minimal budget makes it exciting and also really challenging."

LOW-RISK OFFENDERS

In the early 20th century, many cities had courts located in different neighborhoods, said David Rottman, a principal court researcher for the National Center for State Courts. Starting in the 1960s, courts centralized operations "in pursuit of efficiency," he said, but by the 1990s, the pendulum swung back. Rottman said there was a growing concern that the courts were "getting disconnected from ordinary people and ordinary life."

The Midtown Community Court, the first geography-based program aimed at low-level offenders, opened in New York City in 1993. Judges got to know the surrounding neighborhoods and sentenced offenders to do community service, "to provide restitution to the neighborhood being harmed," Lang said.

The East of the River court grew out of programs like Midtown and local efforts already in place, such as Drug Court, which diverts nonviolent offenders into treatment, and community policing, where officers work with specific neighborhoods to prevent crime. Superior Court also launched the D.C. Community Court — previously called the D.C. Misdemeanor and Traffic Community Court — in 2002, assigning traffic offenses and a subset of misdemeanors to one judge.

Francis said he didn't think keeping the program inside the central courthouse hurt the program. "We're in the community, the community knows us. We're able to hold people accountable," he said.

Sixth District resident Smith agreed. "Whenever you need them, the judges come out to you," she said.

As part of the program, the U.S. attorney's office developed two tracks for offenders deemed low-risk: a deferred-prosecution agreement (DPA) and a deferred-sentencing agreement (DSA). Under a DPA, arrestees could have their case dismissed if they did community service by a certain time; under a DSA, arrestees would plead guilty, but could have their case dismissed if they did the community service.

"It's a recognition in lower-level cases that...full-blown criminal prosecution is not always the best way to change individuals' behavior, nor does it necessarily solve the problems we need to solve," said Richard Tischner, chief of the U.S. attorney's office Superior Court division.

The defense bar was also on board. "Young people making foolish mistakes, to give them an opportunity in the community to work off the debt is just really fantastic," said Betty Ballester, president of the Superior Court Trial Lawyers Association.

Mark Rollins of Washington's Rollins & Chan said he was wary at first. "The approach is a little different, in that you're compromising and working with the prosecutor," he said. "You're trying to protect your client's interests, but you're also trying to look out for the interests of the community." Over time, he added, "you learned how to deal with it." Rollins said he doesn't think the program was a cure-all, "but we just tried to help people as they were coming through."

Until last spring, the U.S. attorney's office didn't offer DPAs and DSAs outside of the East of the River program. Rollins said he and a few other attorneys unsuccessfully tried to argue that this put defendants arrested west of the Anacostia River at a disadvantage, but Tischner said there was never a serious legal challenge.

The judge's connection with the community was also a major part of the program. Rigsby said he went to meetings and events several times a week. "You're tired, after you're done with arraignments and pleas and status hearings," he said. "You go into the community and...you get rejuvenated by the fact that the community is so concerned about offenders and what we do."

START TO FINISH

Although the court hasn't released data on the East of the River program, Canan did say that in 2011 about 30 percent of defendants took advantage of diversionary programs, from DPAs and DSAs to Drug Court and Mental Health Community Court. Informal data from the U.S. attorney's office showed that a large percentage of low-level misdemeanor offenders citywide could be eligible for diversion. Canan said he's aiming for 40 percent participation this year.

The citywide set-up will slightly change the East of the River model. A rotation of senior judges will handle a combined calendar for the Second and Fourth districts, which have historically low crime rates, to keep dockets balanced. On average, each community court judge's docket has about 400 cases pending.

In the East of the River court, cases that went to trial were reassigned to other judges at random; under the new system, judges will handle cases from start to finish. The court is also taking over management of community service site placements, which were previously handled by the Pretrial Services Agency.

The judges, who attended community meetings before the new year, say they are eager to get started. Judge Juliet McKenna, who is taking on the First District calendar, said that in the first two weeks she could see how the diversion options help "defendants feel that it's a weight lifted off of them."

Robert Pittman, chairman of the First District Citizens Advisory Council, said he was familiar with the East of the River program and hopes the expansion can tamp down repeat offenders in his community. Common problems in the First District — which covers Capitol Hill, the Union Station area and the waterfront — range from car break-ins to snatched iPhones, he said.

"We want them to be punished and we want the judges to understand the impact that it has on the community," Pittman said. At the same time, Pittman said he likes that the program tries to separate career criminals from people who just need help.

"We can help people get jobs, we can help them with their behavior," he said. "There are some people who like to commit crimes, but in other cases, there are extenuating circumstances."

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